

## Message Text

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16

ACTION EA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-01

INR-07 NSAE-00 TRSE-00 XMB-04 OPIC-06 SP-02 CIEP-02

LAB-04 SIL-01 OMB-01 PA-02 PRS-01 USIA-15 ERDA-07

CEA-01 DODE-00 FPC-01 H-02 INT-05 L-02 NSC-05 PM-03

SAM-01 OES-05 SS-15 STR-04 FEA-01 EUR-12 /133 W

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R 230815Z APR 75

FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 9648

UNCLAS SECTION 1 OF 2 KUALA LUMPUR 2167

E.O. 11652: N/A

TAGS: ENRG, MY

SUBJECT: AMENDMENT TO MALAYSIA PETROLEUM LAW

REF: A. KUALA LUMPUR 2105 B. 2104 C. 1964 D. 2031

1. THIS CABLE TRANSMITS ESSENTIAL ELEMENTS OF RECENT STATEMENTS ON PETROLEUM DEVELOPMENT (AMENDMENT) ACT BY PETRONAS CHAIRMAN, TENGKU RAZALEIGH; DEPUTY MINISTER IN PRIME MINISTER'S OFFICE ABDULLAH AHMAD; AND NEW STRAITS TIMES EDITORIAL.

2. AT PRESS CONFERENCE APRIL 18 RAZALEIGH MADE FOLLOWING PRINCIPAL POINTS IN WRITTEN STATEMENT:  
QUOTE (A) SOME PEOPLE HAVE EXPRESSED CONCERN OVER THE GOVERNMENT'S INTENTIONS IN INTRODUCING THE PETROLEUM DEVELOPMENT (AMENDMENT) BILL INTO PARLIAMENT PARTICULARLY THE PROVISIONS REGARDING THE ISSUE OF MANAGEMENT SHARES TO PETRONAS BY COMPANIES CARRYING ON THE BUSINESS OF PROCESSING, MANUFACTURING, REFINING, MARKETING OR DISTRIBUTING OF PETROLEUM OR PETROCHEMICAL PRODUCTS.

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(B) I SHOULD LIKE TO TAKE THIS OPPORTUNITY TO EMPHASIZE, WHAT HAS ALREADY BEEN CLEARLY STATED BY THE PRIME MINISTER AND THE DEPUTY MINISTER IN THE PRIME MINISTER'S DEPARTMENT, THAT THERE IS NO INTENTION ON THE PART OF THE GOVERNMENT TO NATIONALISE THE COMPANIES THAT ARE NOW IN THE BUSINESS REFERRED TO. I THINK IT IS IMPORTANT THAT PEOPLE SHOULD JUDGE US BY OUR HISTORY AND BY OUR PAST PERFORMANCE. SO FAR MALAYSIA HAS NOT NATIONALISED ANY SINGLE COMPANY, FOREIGN OR LOCAL, AND WE ARE CERTAINLY NOT GOING TO START NOW.

(C) HOWEVER, IT IS IMPORTANT ALSO TO REALISE THAT PETROLEUM AND PETROCHEMICALS ARE FAST BECOMING ESSENTIAL ITEMS FOR THE PROPER DEVELOPMENT OF THE MALAYSIAN COMMUNITY AND IT IS VERY NORMAL THAT THE COUNTRY SHOULD INTRODUCE MEASURES TO CONTROL AND REGULATE THE PRODUCTION, SUPPLY AND DISTRIBUTION OF ESSENTIAL ITEMS. ALTHOUGH MALAYSIA IS AN OIL-PRODUCING COUNTRY, THIS FACT ALONE, AS EVERYBODY WILL STILL REMEMBER, DID NOT SHELTER IT DURING THE LAST "OIL CRISIS", FROM THE VAGARIES OF THE WORLD MARKET AND FROM THE ACTIVITIES OF SPECULATORS AND MANIPULATORS. SOMETHING, THEREFORE, HAS TO BE DONE TO ENSURE THAT THE MALAYSIAN COMMUNITY WILL AT ALL TIMES OBTAIN SUFFICIENT SUPPLIES OF THESE ESSENTIAL ITEMS AT REASONABLE PRICES. THE OPPORTUNITY ALSO MUST BE TAKEN TO ENSURE THAT THE GOVERNMENT AND THE PEOPLE OF MALAYSIA CAN PARTICIPATE IN THE EXPLOITATION AND DISTRIBUTION OF PETROLEUM, A VITAL NATIONAL RESOURCE, AND ITS PRODUCTS. IT IS FOR THESE REASONS AND FOR THESE REASONS ALONE THAT THE PETROLEUM DEVELOPMENT (AMENDMENT) BILL HAS BECOME NECESSARY.

(D) THE AMENDMENT OF THE ACT WAS INTRODUCED IN ORDER TO ENABLE PETRONAS TO OPERATE IN LINE WITH THE POLICY STATEMENTS MADE BY THE PRIME MINISTER ON 17TH SEPTEMBER 1974 --- IN THE POLICY STATEMENT, THE PRIME MINISTER SAID THIS. ".... I MUST STRESS THAT WE IN MALAYSIA BELIEVE IN ECONOMIC NATIONALISM IN GUIDING THE EXPLOITATION OF OUR NATURAL RESOURCES IN SUCH A WAY THAT OUR PEOPLE AND OUR COUNTRY WILL

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OBTAIN THE GREATEST BENEFIT.

IT IS NO LONGER COMPATIBLE WITH OUR NATIONAL POLICY TO ALLOW FOREIGN DOMINATION OF THIS IMPORTANT INDUSTRY".

(E) TO CONTROL ANY PARTICULAR COMPANY EFFECTIVELY, PETRONAS MUST ACQUIRE MORE THAN 50 PER CENT OF THE SHARES OF THE COMPANY. THE NORMAL MODE OF ACQUISITION IS

EXPENSIVE, TIME-CONSUMING AND IMPRACTICAL. FURTHER, PETRONAS AT THIS STAGE HAS NO SUFFICIENT TRAINED MANPOWER TO TAKE OVER THE ENTIRE MANAGEMENT OF THE INDUSTRIES. THE MOST PRACTICAL WAY IS TO INTRODUCE THIS MANAGEMENT SHARES CONCEPT.

(F) BY VIRTUE OF THE MANAGEMENT SHARES HELD BY IT, PETRONAS WILL NOT ONLY BE ABLE TO BRING THE OPERATION OF THE COMPANY IN LINE WITH THE NATIONAL POLICY AND REQUIREMENTS, BUT ALSO TO ASSIST THE COMPANY TO GROW. IT IS THE INTENTION OF PETRONAS TO NEGOTIATE FOR PARTICIPATION IN THE EQUITY PROPER OF THE COMPANY WHICH GIVES PETRONAS A STAKE IN THAT COMPANY.

(G) IT IS NOT INTENDED THAT ALL COMPANIES WILL BE REQUIRED TO ISSUE MANAGEMENT SHARES TO PETRONAS. ONLY SELECTED PETROLEUM-BASED INDUSTRIES AND COMPANIES DEALING IN PETROLEUM PRODUCTS WHICH ARE CONSIDERED VITAL AND STRATEGIC TO THE NATIONAL ECONOMY WILL BE REQUIRED TO ISSUE MANAGEMENT SHARES TO PETRONAS. THE NEW SECTION 6A PROVIDES FOR EXEMPTION OF ANY COMPANY OR CLASS OF COMPANIES FROM PROVIDING AND ISSUING MANAGEMENT SHARES.

(H) IT IS NOT THE INTENTION OF THE GOVERNMENT TO NATIONALISE ANY INDUSTRIES AND COMPANIES. NATIONALISATION IS CONTRARY TO THE NATIONAL PHILOSOPHY AND ECONOMIC POLICY OF THE GOVERNMENT AND THE GOVERNMENT WILL CONTINUE TO ADOPT THAT POLICY. UNQUOTE.

3. WHILE FOLLOWING DOES NOT APPEAR IN WRITTEN PRESS STATEMENT, RAZALEIGH ALSO QUOTED BY PRESS AS SAYING THAT THIS WAS THE ONLY FIELD THE GOVERNMENT WANTED TO REGULATE AND CONTROL. IT WOULD NOT DO SO IN OTHER UNCLASSIFIED

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FIELDS.

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 9649

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4. DEPUTY MINISTER IN PRIME MINISTER'S OFFICE ABDULLAH AHMAD STATED FOLLOWING KEY POINTS IN INTRODUCING BILL IN LOWER HOUSE (APRIL 4) AND SENATE (APRIL 16):

QUOTE: (A) AS I SAID EARLIER, PETRONAS IS GIVEN BY THE ACT (PETROLEUM DEVELOPMENT ACT, 1974) THE EXCLUSIVE RIGHTS TO CARRY ON BUSINESS OF PROCESSING OR REFINING OF PETROLEUM OR MANUFACTURING OF PETRO-CHEMICAL PRODUCTS FROM PETROLEUM. SUCH A BUSINESS IS AN IMPORTANT ASPECT OF PETROLEUM INDUSTRY. HOWEVER, PETRONAS HAS NOT BEEN GIVEN THE RIGHT TO PARTICIPATE AND CONTROL THE OTHER IMPORTANT ASPECT OF DOWNSTREAM ACTIVITIES, THAT IS TO SAY, THE MARKETING AND DISTRIBUTION OF PETROLEUM AND PETRO-CHEMICAL PRODUCTS. AT THE MOMENT, THERE IS INADEQUATE PARTICIPATION BY BUMIPUTRAS IN THESE ACTIVITIES. THERE IS ALSO A NEED FOR A PLANNED GROWTH OF THESE DOWNSTREAM ACTIVITIES IN ORDER TO RECTIFY THE LOCATIONAL ECONOMIC IMBALANCE BETWEEN URBAN AND RURAL AREAS. THE EMPLOYMENT ASPECT IN THIS BUSINESS SECTOR SHOULD ALSO BE EXAMINED AND IF NECESSARY BE RESTRUCTURED. ALL THESE CAN ONLY BE EFFECTIVELY ACHIEVED IF PETRONAS IS GIVEN THE RIGHT

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TO CARRY ON BUSINESS OF MARKETING AND DISTRIBUTION OF PETROLEUM AND PETRO-CHEMICAL PRODUCTS. HOWEVER, THIS DOES NOT MEAN THAT OTHER PERSONS CANNOT CARRY OUT SUCH BUSINESS AS THE PROPOSED AMENDMENT GIVES THE POWER TO THE PRIME MINISTER TO GIVE PERMISSION TO SUCH PERSONS SUBJECT TO CONDITIONS. THIS AMENDMENT IS PROVIDED IN CLAUSE 2(C) OF THE BILL.

(B) THE SECOND IMPORTANT AMENDMENT IS IN RESPECT OF THE ISSUE OF MANAGEMENT SHARES TO PETRONAS BY COMPANIES CARRYING ON BUSINESS OF PROCESSING OR REFINING OF PETROLEUM OR MANUFACTURING OF PETRO-CHEMICAL PRODUCTS OR MARKETING OR DISTRIBUTING OF PETROLEUM AND PETRO-CHEMICAL PRODUCTS. THE PURPOSE OF THIS AMENDMENT IS ALSO TO ACHIEVE THE POLICY OBJECTIVES I MENTIONED EARLIER, THAT IS TO SAY, PARTICIPATION BY BUMIPUTRAS, THE PLANNED GROWTH OF DOWNSTREAM ACTIVITIES AND THE BALANCE OF EMPLOYMENT. I WOULD LIKE TO EMPHASIZE THAT THE ISSUE OF MANAGEMENT SHARES BY THESE COMPANIES TO PETRONAS IS FOR CASH AND AT A PRICE WHICH IS EQUIVALENT TO THE MARKET PRICE OF THE ORDINARY SHARES OF THE COMPANIES QUOTED ON THE STOCK EXCHANGE AT THE DATE OF THE ISSUE, AND IF THE ORDINARY SHARES OF A COMPANY ARE NOT SO QUOTED, IT WOULD BE AT THE PRICE WHICH IS FAIR AND REASONABLE. I WOULD LIKE FURTHER TO EMPHASIZE THAT THE MANAGEMENT SHARES AND THE ORDINARY SHARES RANK PARI PASSU IN RESPECT OF ALL DIVIDENDS DECLARED BY THE COMPANY, OF ALL BONUSES AND RIGHTS ISSUED, IN THE RIGHT TO RETURN OF CAPITAL AND IN THE RIGHT TO PARTICIPATION IN ALL SURPLUS ASSETS OF THE COMPANY IN LIQUIDATION. THE ONLY DIFFERENCE BETWEEN THESE MANAGEMENT SHARES AND ORDINARY SHARES IS THAT THE HOLDER OF A MANAGEMENT SHARE SHALL HAVE THE RIGHT TO 500 VOTES. UNDER THIS AMENDMENT, THE PRIME MINISTER IS GIVEN POWER TO EXEMPT ANY COMPANY OR ANY CLASS OF COMPANY FROM THIS PROVISION, THAT IS TO SAY, IF SUCH A COMPANY IS EXEMPTED IT NEED NOT PROVIDE AND ISSUE MANAGEMENT SHARES TO PETRONAS. THIS AMENDMENT IS PROVIDED IN CLAUSE 3 OF THE BILL.

(C) THE THIRD IMPORTANT AMENDMENT IS IN RESPECT OF UNCLASSIFIED

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REGULATION-MAKING POWER. THE POWER IS TO BE EXTENDED TO INCLUDE THE REGULATION OF DOWNSTREAM ACTIVITIES, MARKETING AND DISTRIBUTION OF PETROLEUM AND ITS PRODUCTS APART FROM UPSTREAM ACTIVITIES. THE NEW POWER ALSO INCLUDES POWER TO PRESCRIBE PENALTIES FOR BREACH OF THE REGULATIONS AND TO PROVIDE FOR FORFEITURE. THIS AMENDMENT IS PROVIDED IN CLAUSE 4 OF THE BILL. UNQUOTE.

5. NEW STRAITS TIMES (GOVT OWNED) EDITORIAL DATED APRIL 21 MAKES BASICALLY SAME POINTS AS RAZALEIGH AND ABDULLAH AHMAD AS FOLLOWS: NATIONALIZATION IS CONTRARY TO THE GOVERNMENT'S PHILOSOPHY AND ITS ECONOMIC POLICY OF FREE ENTERPRISE. EVERY NATION, HOWEVER, MUST CONTROL ITS ECONOMIC AFFAIRS AND THE MANAGEMENT OF ITS ECONOMIC AFFAIRS AND THE MANAGEMENT OF ITS

ECONOMIC RESOURCES. IT WOULD BE LUDICROUS TO SUGGEST THAT THE OIL INDUSTRY, VITAL TO THE MALAYSIAN ECONOMY, SHOULD BE EXEMPT FROM CONTROL, LEFT TO THE INITIATIVE OF FOREIGN INVESTORS WHOSE COOPERATION IS DESIRED AND REQUESTED, BUT WHOSE INTEREST IN THE GOVERNMENT'S DOMESTIC POLICIES IS THAT OF AN OUTSIDER .... GOVERNMENT IS CONCERNED OVER DOWNSTREAM ACTIVITIES, THE MARKETING AND DISTRIBUTION OF OIL, THE ADEQUATE PARTICIPATION OF BUMIPUTRAS -- WHO HAVE NO MORE THAN ONE IN NINE OF THE PETROL STATIONS SCATTERED THROUGHOUT THE COUNTRY -- AND A STRONGER BUMIPUTRA ELEMENT IN THE STAFFS OF THE OIL COMPANIES ....PETRONAS MUST DEPEND UPON THEM (FOREIGN OIL COMPANIES) IN THE SEARCH FOR OIL FIELDS AND BRINGING NEW PROJECTS INTO PRODUCTION. THE TERMS FOR COMPANIES' CONTINUED PARTICIPATION IN THE INDUSTRY AT ALL LEVELS ARE NOT UNGENEROUS AND MALAYSIAN RIGHT TO MALAYSIAN CONTROL OF MALAYSIA'S NATURAL ASSETS IN MALAYSIA'S INTERESTS IS UNQUESTIONED. THE CHOSEN METHOD IS COOPERATION NOT THE NATIONALIZATION OF FOREIGN INVESTMENT.

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